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IN THE

Supreme Court of the United States

OCTOBER TERM, 1951.

No. 172.

ERIC G. KAUFMAN and AENNI C. KAUFMAN, *Petitioners,*

v.

SOCIETE INTERNATIONALE POUR PARTICIPATIONS INDUSTRIELLES ET COMMERCIALES S. A. ETC.,

J. HOWARD MCGRATH, Attorney General of the United States, as successor to the Alien Property Custodian,

GEORGIA NEESE CLARK, Treasurer of the United States, and

REMINGTON RAND INC., *Respondents.*

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit.

MEMORANDUM FOR RESPONDENT, REMINGTON RAND INC., IN OPPOSITION.

WILLIAM P. MACCRACKEN, JR.,
Attorney for Remington Rand Inc., Respondent.

URBAN A. LAVERY,
WILLIAM W. BARRON,
FRANK C. STERCK,
Of counsel.

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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OPINIONS BELOW.

The oral opinion of the District Court (R. 74) is unreported. The opinion of the Court of Appeals (R. 79) is at 188 F. 2d 1017.

JURISDICTION.

The jurisdiction of this Court is invoked under 28 U. S. C. Sec. 1254(1).

QUESTIONS PRESENTED.

Can American stockholders of a Swiss corporation intervene, either individually or as members of a class, in a proceeding brought by the corporation under Section 9(a) of the Trading With the Enemy Act to recover property vested by the Alien Property Custodian?

STATUTE AND RULE INVOLVED.

The statute and rule involved are set forth in Appendix A to the Petition (pp. 19-26).

STATEMENT.

Petitioners were denied the right to intervene in a Section 9(a) proceeding under the Trading With the Enemy Act. Remington Rand Inc. seeks to have reviewed by its petition for certiorari in No. 148, now pending before this Court, the judgment of the Court of Appeals affirming the trial court's action in dismissing its intervening petition.

If this respondent, Remington Rand and Interhandel prevail on their claim to the General Anilene & Film Corporation stock, the petitioners in this case clearly have no cause of action. The claim of respondent, Remington Rand Inc. is contingent upon the return to respondent, Interhandel, of the money and securities now held by the Office of Alien Property. The management of the corporation in which these petitioners are stockholders, and the respondent, who claims a contractual interest with that corporation in a large portion of the property involved in the 9(a) proceeding under the Trading With the Enemy Act, are asserting every effort to establish Interhandel's claim to *all* of the vested property.

Under these circumstances, the petitioners, as stockholders, either on their own behalf or on behalf of a class, have no standing to sue for or recover any corporate property or interest. This proposition of the law of corporations is too well settled to require the citation of authorities. There is nothing in the Trading With the Enemy Act to alter this well-established rule of corporate law.

CONCLUSION.

Therefore, this petition for a writ of certiorari should be denied.

Respectfully submitted,

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URBAN A. LAVERY,
WILLIAM W. BARRON,
FRANK C. STERCK,
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